REMARKS/ARGUMENTS

Claims 1, 3, 5-10, 12-17, 20-23, 25, 28, 29, 31 and 34-36 are pending in the present application. The Office Action mailed November 13, 2006 rejected claims 1, 3, 5-10, 12-17, 20-23, 25, 28, 29, 31 and 34-36 under 35 U.S.C. § 112 and rejected claims 1, 3, 5-10, 12, 13, 17, 20-23, 25, 28, 29, 31 and 34-36 under 35 U.S.C. § 101. Further, claims 1, 3, 5-10, 12-17, 20-23, 31 and 34-36 were rejected under 35 U.S.C. § 103. Claims 2, 4, 11, 18, 19, 24, 26, 27, 30, 32, 33 and 37 were previously cancelled. Claims 1, 5, 17, 25 and 31 have been amended. Claims 38-41 have been added.

Reconsideration is respectfully requested in view of the above amendments to the claims and the following remarks.

A.   Claims 1, 3, 5-10, 12-17, 20-23, 25, 28, 29, 31 and 34-36 Rejected Under 35 U.S.C. § 112

The Office Action rejected claims 1, 3, 5-10, 12-17, 20-23, 25,28, 29, 31 and 34-36 under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter. This rejection is respectfully traversed.

The Office Action asserts that "'the at least one of the plurality of application programs' in line 9 … [and] 'the executable code' at line 11 … [have] insufficient antecedent basis." Office Action, page 3. Claims 1, 17, 25 and 31 have been amended to remove this language. Claim 5 has been amended to recite "at least one of the plurality of application programs" to address this rejection. Applicants respectfully request that the rejection of this claim now be withdrawn.

B.   Claims 1, 3, 5-10, 12, 13, 17, 20-23, 25, 28, 29, 31 and 34-36 Rejected Under 35 U.S.C. § 101

The Office Action rejected claims 1, 3, 5-10, 12, 13, 17, 20-23, 25, 28, 29, 31 and 34-36 under 35 U.S.C. § 101 because the claimed invention is directed to non statutory subject matter. This rejection is respectfully traversed.

The Office Action stated that these claims "do not provide a practical application of the method to produce a useful, concrete and tangible result, and are therefore directed to non-statutory subject matter." Office Action, page 5 (<u>citing</u> M.P.E.P. § 2106). Claims 1, 17, 25 and 31 have been amended to recite "after confirming the conflict, recording that the selected application and the executed software code conflict in the database." This amendment is supported by at least page 4, lines 15-20 of Applicants' specification. Applicants respectfully submit that "recording … [a] conflict in the database," as recited in claims 1, 17, 25 and 31, is a useful, concrete and tangible result. Accordingly, Applicants respectfully request that this rejection be withdrawn.

C.　　Claims 1, 3, 5-10, 12-17, 20-23, 31 and 34-36 Rejected Under 35 U.S.C. § 103(a)

The Office Action rejected claims 1, 3, 5-10, 12-17, 20-23, 31 and 34-36 under 35 U.S.C. § 103(a) based on U.S. Patent No. 5,634,114 to Shipley (hereinafter, "Shipley") in view of U.S. Patent No. 6,185,734 to Saboff et al. (hereinafter, "Saboff") in view of U.S. Patent No. 5,590,056 to Barritz (hereinafter, "Barritz"). This rejection is respectfully traversed.

The M.P.E.P. states that

> To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

> The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.

M.P.E.P. § 2142.

Applicants respectfully submit that the claims at issue are patentably distinct from the cited references. The cited references do not teach or suggest all of the limitations in these claims.

Claims 1, 17, 25 and 31 recite "confirming a conflict between the selected application program and the software code … after the execution of the software code has been detected." Claims 1, 17, 25 and 31 have been amended to recite "after confirming the conflict, recording that the selected application and the executed software code conflict in the database." Claims 1, 17, 25 and 31 have also been amended to recite "determining that the executed software code is not correct for the selected application program." These amendments are supported by at least page 4, lines 15-20 and page 13, lines 3-15 of Applicants' specification. Applicants respectfully submit that the cited references do not disclose these limitations. Specifically, the cited references do not disclose "confirming a conflict" by "determining that the executed software code is not correct for the selected application program," as recited in claims 1, 17, 25 and 31.

The Office Action correctly points out that "Shipley does not expressly disclose that the conflict between the selected application program and the software code is confirmed after the execution of the software code has been detected." Office Action, page 9. However, the Office Action further asserts that "Barritz further discloses that conflicts, such as the execution of obsolete versions of the software code noted above, are reported or confirmed after the execution of the software code has been detected and recorded." Id at pages 9-10 (parentheticals omitted). In support of this assertion, the Office Action cited the following portion of Barritz:

> The present invention makes it possible for a company to cancel maintenance or rental on unused or under-used products or to uncover unauthorized usage of products or to uncover usage of prior obsolete versions of products or to identify patterns of usage.
>
> …
>
> In a preferred embodiment, reporting program 60 can, using the information stored in system configuration log 66 and recorded information log 62, produce output reports 64. To produce reports, reporting program 60 correlates the recorded information regarding events that have occurred and surveyed products on the computer system and can produce an almost infinite variety of reports. For instance, after correlating this information, reporting

>program 60 could produce reports ... listing all versions of a product currently installed, along with a list of the number of users that utilize each.

Barritz, col. 3, lines 4-8 and col. 8, lines 43-63.

However, this cited portion of Barritz does not teach or suggest "confirming a conflict between the selected application program and the software code." In fact, this cited portion of Barritz does not teach or suggest a "conflict" at all. Rather, Barritz simply teaches that a reporting program 60 may be utilized to produce output reports 64. The output reports 64 may "list[] all versions of a product currently installed." By reviewing such output reports 64, it may be "possible for a company to ... uncover usage of prior obsolete versions of products."

Applicants respectfully point out that the claims at issue do not simply recite a "confirming a conflict"; rather, they recite "confirming a conflict between the selected application program and the software code." Although the Office Action asserts that Barritz teaches "confirming a conflict," the Office Action does not identify any "application program" or any "software code" for which the "conflict" in Barritz allegedly exists.

In Barritz, a "product" is defined as "a number of executable files known as programs, as well as possibly a number of non-executable files, such as data bases, profiles, etc." However, Barritz does not teach or suggest "confirming a conflict" between an executable file and a non-executable file. If it is determined that a "prior obsolete version[]" of a product is being used, this does not "confirm[] a conflict" between an executable file and a non-executable file. Rather, this is simply identifying that an "obsolete" "number of executable files ... as well as possibly ... non-executable files" is being used when a newer "number of executable files ... as well as possibly ... non-executable files" is available.

Furthermore, Barritz does not disclose, teach or suggest "confirming a conflict" by "determining that the executed software code is not correct for the selected application program," as recited in claims 1, 17, 25 and 31. "[U]ncover[ing]" that "prior … versions of products" are "obsolete" does not mean that the prior versions are "not correct for the selected application program," as recited in claims 1, 17, 25 and 31. A prior version of a product may be obsolete, but

still be "correct for the selected application program," as recited in claims 1, 17, 25 and 31. For example, an application file for Microsoft Word 4.0 may not conflict with a software code for MS Word 4.0, though these versions may be considered "obsolete" when compared to Microsoft Word 2007.

Claims 1, 17, 25 and 31 have also been amended to recite that "confirming a conflict" is performed "in response to the application program executing the software code." This amendment is supported by at least page 6, lines 13-25 of Applicants' specification and Figure 1 of Applicants' drawings. Barritz does not each or suggest this claim element. As discussed above, the reporting program 60 does not "confirm[] a conflict" by simply generating output reports 64. However, even if there were some information about a "conflict" in the output reports 64, the output reports 64 are not produced "in response to [an] application program executing ... software code," as recited in the claims at issue. In Barritz, the output reports 64 are produced whether or not a particular "application program" executes a particular "software code."

Because Barritz merely discloses "uncover[ing] prior obsolete versions of products," Applicants respectfully submit that Barritz does not disclose, teach or suggest "confirming a conflict" by "determining that the executed software code is not correct for the selected application program," as recited in claims 1, 17, 25 and 31.

The Office Action has not cited, nor can Applicants find, any portion of Saboff that discloses, teaches or suggests "confirming a conflict" by "determining that the executed software code is not correct for the selected application program," as recited in claims 1, 17, 25 and 31. Therefore, none of the cited references discloses, teaches or suggests this limitation.

The Office Action correctly points out that Shipley does not disclose "configuring a database having a plurality of application programs, wherein each one of the plurality of application programs corresponds to at least one designated software code, wherein the plurality of application programs includes the selected application program, and wherein the corresponding at least one designated software code is not the software code executed by the selected application program." Office Action, page 7. However, the Office Action asserts that "Saboff discloses a registry or database having a

plurality of application programs, wherein each one of the plurality of application programs corresponds to at least one designated software code, and wherein the plurality of application programs includes the selected application program." Id.

In support of the combination of Shipley and Saboff, the Office Action asserts that "[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made to supplement the table of Shipley with the registry or database taught by Saboff so that the version negotiation system disclosed by Shipley could further enable different users, groups, processes or environments to use different versions of the same library simultaneously." Id. Applicants respectfully submit that the Office Action's proposed motivation to combine is improper. Specifically, Applicants submit that Shipley is already capable of enabling different users, groups, processes or environments to use different versions of the same library simultaneously.

For example, Shipley discloses the following:

> DLLs are advantageous in part because they provide, as discussed, routines that are compiled and are in executable form. Before an application program may utilize a DLL, it must be loaded into the computer system's memory or be similarly accessible on disk drive. During run time, an executable program may call subroutines of the DLL to perform a variety of tasks. Input/output interface, disk control, or graphics display, among some of the many tasks available. One of the many benefits of using a DLL file is that often several applications, that may be resident in a computer memory at the same, may use the same procedures for performing routine tasks, such as display interface. Instead of each application program having its own copy of the procedure, only one copy need to be resident in the computer RAM at a time and can be shared by the applications. Therefore, each program may use the DLL subroutine and the amount of RAM required to contain all of the programs at any given time may be significantly reduced.

Shipley, col. 5, lines 21-39. Shipley clearly discloses that "often several applications, that may be resident in a computer memory at the same, may use the same procedures for performing routine tasks .... Therefore, each program may use the DLL subroutine." Therefore, there Shipley does not require the use of Saboff's "hierarchical registry data structures and methodologies" to enable the use of different versions of the same library simultaneously. Consequently, the Office Action's proposed

motivation to combine Saboff with Shipley is improper. Thus, the cited references do not disclose, teach or suggest "configuring a database having a plurality of application programs, wherein each one of the plurality of application programs corresponds to at least one designated software code, wherein the plurality of application programs includes the selected application program, and wherein the corresponding at least one designated software code is not the software code executed by the selected application program," as recited in claims 1, 17, 25 and 31.

Therefore, the cited references do not disclose, teach or suggest "confirming a conflict between the selected application program and the software code" or "configuring a database having a plurality of application programs, wherein each one of the plurality of application programs corresponds to at least one designated software code, wherein the plurality of application programs includes the selected application program, and wherein the corresponding at least one designated software code is not the software code executed by the selected application program," as recited in claims 1, 17, 25 and 31. Consequently, the Office Action has not established a *prima facie* case of obviousness against claims 1, 17, 25 and 31.

In view of the foregoing, Applicants respectfully submit that claims 1, 17, 25 and 31 are patentably distinct from the cited references. Accordingly, Applicants respectfully request that the rejection of claims 1, 17, 25 and 31 be withdrawn.

Furthermore, claims 3, 5-10 and 12-16 depend either directly or indirectly from claim 1. Claims 20-23 depend either directly or indirectly from claim 17. Claims 28-29 depend either directly or indirectly from claim 25. Claims 34-36 depend either directly or indirectly from claim 31. Accordingly, Applicants respectfully request that the rejection of claims 3, 5-10, 12-16, 20-23, 28-29, and 34-36 be withdrawn for at least the same reasons as those presented above in connection with claims 1, 17, 25 and 31.

D.   Claims 25, 28 and 29 Rejected Under 35 U.S.C. § 103(a)

The Office Action rejected claims 25, 28 and 29 under 35 U.S.C. § 103(a) based on Shipley in view of Saboff in view of Barritz, and further in view of U.S. Patent No. 5,960,204 to Yinger et al. (hereinafter, "Yinger"). This rejection is respectfully traversed.

The standard for establishing a *prima facie* case of obviousness under 35 U.S.C. § 103(a) is provided above. Applicants respectfully submit that the claims at issue are patentably distinct from the cited references. The cited references do not teach or suggest all of the limitations in these claims.

As shown above, the Office Action has not cited, nor can Applicants find, any portion of Barritz, Shipley or Saboff that discloses, teaches or suggests "confirming a conflict" by "determining that the executed software code is not correct for the selected application program," as recited in claim 25. Furthermore, the Office Action has not cited, nor can Applicants find, any portion of Yinger that discloses, teaches or suggests this limitation. Consequently, the Office Action has not established a *prima facie* case of obviousness against claim 25.

In view of the foregoing, Applicants respectfully submit that claim 25 is patentably distinct from the cited references. Accordingly, Applicants respectfully request that the rejection of claim 25 be withdrawn.

Claims 28-29 depend either directly or indirectly from claim 25. Accordingly, Applicants respectfully request that the rejection of claims 28-29 be withdrawn for at least the same reasons as those presented above in connection with claim 25.

E.   New Claims 38-41

Claims 38-41 have been added. Support for these new claims may be found in original claims 4, 19, 27 and 33.

Claim 38 depends directly from claim 1. Claim 19 depends directly from claim 17. Claim 27 depends directly from claim 25. Claim 33 depends directly from claim 31. Accordingly, Applicants
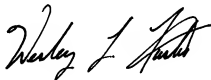
respectfully submit that claims 38-41 are patentably distinct from the cited references for at least the same reasons as those presented above in connection with claims 1, 17, 25 and 31.

F.   Conclusion

    Applicants respectfully assert that all pending claims are patentably distinct from the cited references, and request that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

                                    Respectfully submitted,

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Date: February 13, 2007

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